

Message Text

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70-61

ACTION EUR-25

INFO OCT-01 ISO-00 DEAE-00 CIAE-00 INR-10 IO-14 JUSE-00

NSAE-00 RSC-01 SNM-02 SY-10 TRSE-00 USIA-15 NSC-10

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R 161624Z NOV 73

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 2377

INFO AMEMBASSY DUBLIN

AMEMBASSY COPENHAGEN

AMEMBASSY LONDON

AMEMBASSY PARIS

AMMBASSY BONN 3141

AMEMBASSY ROME

AMEMBASSY LUXEMBOURG

AMEMBASSY BRUSSELS

USMISSION EC BRUSSELS UNN

AMEMBASSY OTTAWA

AMEMBASSY STOCKHOLM

USMISSION USUN

C O N F I D E N T I A L THE HAGUE 5039

E.O. 11652: GDS

TAGS: SNAR, NL, PFOR, US

SUBJ: NARCOTICS: REQUEST FOR OPINION ON INTERNATIONAL LEGAL

ASPECTS OF HYPOTHETICAL MARIHUANA LEGALIZATION BY US

CONSTITUENT STATE

SUMMARY: MIN/HEALTH OFFICIAL HAS QUERIED EMBOFF RE EFFECT ON US
INTERNATIONAL OBLIGATIONS UNDER SINGLE CONVENTION OF HYPOTHETICAL
LEGALIZATION OF MARIHUANA BY US CONSTITUTENT STATE. ACTION REQ-
UESTED: SEA PAR 3. END SUMMARY.

1. MIN/HEALTH OFFICIAL (DE GEER) HAS QUERIED EMBASSY NARCOTICS
CONTROL OFFICER RE POWERS OF STATES IN THE US TO LEGALIZE USE OF
MARIHUANA WITHIN THEIR BORDERS. EMBOFF, NOTING HE HAD LEGAL
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TRAINING), REPLIED IT WAS HIS PERSONAL OPINION THAT STATES HAVE

POWER TO DO SO, BUT THAT EVEN IF STATE JURISDICTIONS SO OPTED, FEDERAL GOVERNMENT WOULD RETAIN CONTROL OVER INTERSTATE TRAFFIC AND, GIVEN USG ATTITUDE ON QUESTION OF LEGALIZATION MARIHUANA, INTERSTATE TRAFFIC FOR COMMERCIAL PURPOSES WOULD LIKELY CONTINUE TO BE BARRED, EVEN BETWEEN ADJACENT STATES WHICH OPTED TO LEGALIZE MARIHUANA USE. EMBOFF DID NOT SPECULATE ON WHAT POWER FEDERAL GOVT WOULD HAVE OVER TRANSPORT OVER STATE LINES FOR NON-COMMERCIAL PURPOSES BETWEEN TWO SUCH ADJACENT JURISDICTIONS. HE POINTED OUT THAT NO US JURISDICTION HAS EVER LEGALIZED MARIHUANA AND MENTIONED RECENT RESOUNDING DEFEAT OF SUCH A PROPOSAL IN CALIFORNIA REFERENDUM.

2. DE GEER THEN QUERIED WHAT EFFECT A STATE'S LEGALIZATION OF MARIHUANA WOULD HAVE ON DISCHARGE OF US OBLIGATIONS UNDER SINGLE CONVENTION. EMBOFF SAID HE NOT QUALIFIED TO ANSWER THAT QUESTION, WHICH CONTAINED APPARENT CONTRADICTION BETWEEN RIGHTS OF STATES ON ONE HAND AND POWER OF FEDERAL GOVERNMENT TO ENTER INTO AND ENFORCE TREATIES ON THE OTHER. IN RESPONSE TO IMPLICIT REQUEST FROM DE GEER, EMBOFF AGREED TO SEEK ADVICE ON THIS QUESTION AND INFORM DE GEER. HOWEVER, EMBOFF CAUTIONED THAT ANY ADVICE THAT MAY BE RECEIVED ON THIS QUESTION WOULD BE AN OPINION ONLY, SINCE ONLY US COURTS ARE COMPETENT TO PRONOUNCE ON THE MATTER.

3. ACTION REQUESTED: PLEASE ADVISE EMBASSY OF APPROPRIATE RESPONSE TO DE GEER ON QUESTION OF (A) POWERS OF US STATES TO LEGALIZE MARIHUANA PRODUCTION, DISTRIBUTION, SALE, POSSESSION, AND USE WITHIN THEIR BORDERS; (B) POWER OF FEDERAL GOVT TO PROHIBIT TRANSPORT OF MARIHUANA, FOR COMMERCIAL PURPOSES OR OTHERWISE, OVER COMMON BORDER OF STATES IN WHICH MARIHUANA USE WOULD NOT BE ILLEGAL; (C) IMPLICATIONS OF MARIHUANA LEGALIZATION BY A STATE FOR USG'S OBLIGATIONS UNDER SINGLE CONVENTION. WOULD ALSO APPRECIATE, AT DEPARTMENT'S CONVENIENCE, FOR MISSION BACKGROUND, ANY MATERIAL RELATING TO REFERENDA IN US ON QUESTION OF MARIHUANA LEGALIZATION.

4. COMMENT: DE GEER IS INVOLVED IN GON'S CURRENT EXERCISE OF FORMULATING DRUG POLICY, WHICH GON HOPES TO PRESENT TO PARLIAMENT IN THE FORM OF A MEMORANDUM BY DEC 1. (THE MEMORANDUM WILL BE DEBATED BY PARLIAMENT, WHICH, WE UNDERSTAND, INTENDS TO HOLD HEARINGS ON IT BEFORE GOING ON WITH ACTUAL DRAFTING OF LEGISLATION, PROBABLY CONFIDENTIAL

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BY EARLY SPRING). PREDECESSOR GOVERNMENT SUBMITTED MEMORANDUM TO PARLIAMENT LAST YEAR, WHICH WAS NOT ACTED UPON, CONTAINING PROPOSAL FOR HANDLING MARIHUANA-RELATED ACTIVITY (I.E. PRODUCTION, COMMERCE, ETC.) UNDER OPIUM ACT. PRESENT HEALTH MINISTER VORRINK, HOWEVER, KNOWN TO BE IN FAVOR OF LEGALIZATION MARIHUANA USE, AND APPEARS TO HAVE DIRECTED HER STAFF TO ADVISE HER ON LEGAL IMPLICATIONS OF SUCH A PROPOSAL.
GOULD

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